

WAC 326-20-048 Presumption of disadvantage. (1) Social disadvantage. The agency rebuttably presumes the following persons are socially disadvantaged individuals for the purposes of certification, consistent with 49 C.F.R. Section 26.67: Women; persons who are Black/African American, Hispanic/Latino, Native American, Asian, Pacific Islander, Native Hawaiian, and Alaska Native; and other minorities found disadvantaged by the small business association. Additionally, the agency rebuttably presumes that LGBTQ individuals are socially disadvantaged individuals for the purposes of certification.

(2) Each presumptively socially disadvantaged applicant must submit a signed declaration of eligibility (DOE), as provided by the office, that they are socially and economically disadvantaged.

(3)(a) Economic disadvantage. Each owner of a firm applying for state certification must sign a declaration that they have a personal net worth that does not exceed \$2,047,000, per WAC 326-20-049. The office will adjust the personal net worth cap routinely.

(b) Rebuttal of economic disadvantage. If the statement of personal net worth that an individual submits under this section shows that the individual's personal net worth exceeds \$2,047,000 or a reasonable person would not consider the person economically disadvantaged, the individual's economic disadvantage is rebutted, and the individual is not deemed to be economically disadvantaged. Such an individual is no longer eligible to participate in the program and cannot regain eligibility by making an individual showing of disadvantage. The office is not required to have a proceeding under this section to rebut the presumption of economic disadvantage in this case.

(4) Individual determinations of social and economic disadvantage. Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged may apply for Socially and Economically Disadvantaged Business Enterprise (SEDBE) certification. The office makes a case-by-case determination of whether each individual whose ownership and control are relied upon for SEDBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to the office, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$2,047,000 shall not be deemed to be economically disadvantaged. In making these determinations, the office uses WAC 326-20-046 and 326-20-047. The office requires that applicants provide sufficient information to permit determinations under WAC 326-20-046 and 326-20-047.

NEW SECTION

WAC 326-20-088 LGBTQBE certification program. (1) To foster small business participation, and to promote equity in state contracting while further recognizing the protected class status of LGBTQ, an LGBTQBE certification program is created.

(2) LGBTQBE certification program will require all other criteria included in state certification programs, including social disadvantage, economic disadvantage, ownership, control, and business size.

(3) Whenever issues arise regarding eligibility based on personal net worth, business size, ownership, and control which cannot be resolved by reference to these regulations, 49 C.F.R. Part 26 shall provide guidance to resolve such issues.